

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ APR 09 2012 ★

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JOHN PARRIS, individually and on behalf of all
others similarly situated,

BROOKLYN OFFICE

Plaintiff,

ORDER

-against-

11-CV-3266 (NGG) (SMG)

CENTRAL PLUMBING AND HEATING SERVICE
CORP. and EDWARD R. KELLY,

Defendants.

-----X
NICHOLAS G. GARAUFIS, United States District Judge.

Before the court is a motion by the plaintiff, John Parris, for default judgment against his former employer, Central Plumbing and Heating Service, and its principal, Edward R. Kelly (collectively "Defendants"). (Docket Entry # 7). That motion is GRANTED.

Parris filed this putative collective action against Defendants on July 7, 2011, alleging violations of the Fair Labor Standards Act ("FLSA") and multiple provisions of New York's Labor Law. (See Docket Entry # 1). Defendants did not appear or defend the case, and the Clerk of Court entered default on October 17, 2011. (See Docket Entry # 8.) Thereafter, an attorney filed a notice of appearance on behalf of Defendants (see Docket Entry # 9), but did not file an answer or otherwise attempt to defend the case. Pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, the court warned Defendants that failure to answer or otherwise defend the case within the next seven days would result in the court granting Parris's motion for default judgment. (See Order dated Feb. 23, 2012.) Well over a month has passed since this notice to Defendants, and Defendants still have not pled or otherwise defended the action.

The court has considered the allegations set out in Parris's complaint and finds them

sufficient to establish Defendant's liability as to Parris individually.¹ Accordingly, Parris's motion is GRANTED insofar as it seeks default judgment on his own claims. Pursuant to 28 U.S.C. § 636(b)(1)(B), the court respectfully refers Parris's individual claims for damages, attorney's fees, and costs to Magistrate Judge Steven M. Gold for a report and recommendation. SO ORDERED.

Dated: Brooklyn, New York
April 5, 2012

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS
United States District Judge

¹ Parris's failure to move to certify a collective action under the FLSA precludes a finding of liability as to the putative class members alleged to exist in the complaint.